THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 16796 of 1996

Dated: 22.02.2007

Between:

B.I. Industries,
Raghava Ratna Towers,
Chirag Ali Lane, Hyderabad.

… Petitioner

AND

The Labour Court-I, Hyderabad, rep., by its
Presiding Officer, Chandra Vihar Building,
I Floor, M.J. Road, Hyderabad & another.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 16796 of 1996

ORDER:-

The Management of the petitioner company filed the present writ petition questioning the award of the Labour Court-I, Hyderabad (for short "the Labour Court") in I.D.No.264 of 1991 dated 16.02.1996 whereby while declaring that the termination of the 2nd respondent was bad, it directed the petitioner to pay a sum of Rs.50,000/- towards compensation in lieu of reinstatement, backwages and other attendant benefits apart from the amount which was already paid to the 2nd respondent while settling his account under Ex.M3.

The brief facts for the purpose of the case are that the 2nd respondent was appointed as Turner on a monthly salary of Rs.500/- in September 1978 and at the time of his termination he was drawing a salary of Rs.1100/- per month. On 29.04.1991, the 2nd respondent was suddenly called by the Manager of the petitioner company and directed him to stay for two hours more for doing overtime. Thereupon the 2nd respondent's services were terminated and he was paid gratuity amount. The 2nd respondent,

therefore, raised an industrial dispute under Section 2-A(2) of the Industrial Disputes Act 1947 (for short "the Act"). The petitioner contested the application filed by the 2nd respondent. Since the order of termination on the ground of disobedience of the directions of the Management to work overtime was not proceeded by an enquiry, the Labour Court permitted both parties to adduce their evidence.

The 2nd respondent was examined as WW.1. The Management examined three witnesses. In addition to the oral evidence, certain documentary evidence was adduced by both parties.

After a consideration of the entire evidence and material on record, the Labour Court gave a finding that the Management has failed to establish that the 2nd respondent wantonly disobeyed its orders to do overtime and that on account of such disobedience the Management has incurred any monetary loss. On the said premise, the Labour Court held that the termination order dated 30.04.1991 passed by the petitioner against the 2nd respondent is illegal and against the principles of natural justice and consequently it has set aside the said order.

Sri A.K. Jayaprakash Rao, learned counsel appearing for the petitioner fairly submitted that the finding of fact recorded by the Labour Court does not call for interference in view of the well settled parameters of the judicial review undertaken by this Court under Article 226 of the Constitution of India. The learned counsel,

however, raised serious argument with respect to the direction given by the Labour Court that in view of the perceived threat expressed by the 2nd respondent to his life, the Labour Court directed the Management to pay a sum of Rs.50,000/- in lieu of reinstatement, backwages and other attendant benefits.

Per contra, Sri Md. Yousufuddin, learned counsel appearing for respondent No.2 vehemently contended that the award of the Labour Court directing payment of compensation of Rs.50,000/- in lieu of re-employment, backwages and all other benefits cannot be termed as unreasonable warranting interference of this Court.

I have carefully considered the rival contentions. The logical consequence of the finding of the Labour Court on the un-lawful termination of the 2nd respondent is that the 2nd respondent is entitled to reinstatement. On such reinstatement it can be reasonably presumed that he would have drawn at least the last drawn wage for a reasonable length of time till he has either left the employment or was terminated in accordance with law. The Labour Court had, in fact, calculated the amount, which the 2nd respondent would have earned, at Rs.1,32,000/- per annum by taking into consideration the last drawn wage and the fact that he was still left with 22 years of service, arrived at a sum of Rs.50,000/-, which would be equal to about three years wages. Strictly speaking, this amount cannot be said to be arbitrary. However, there may be several imponderables such as the immediate termination of the 2nd respondent by the Management

by following the procedure under law or the 2nd respondent himself leaving the employment. If these factors are taken into consideration, there may be scope for a minor reduction in the quantum of compensation already awarded by the Labour Court.

It is brought to my notice that a conditional interim order was granted by this Court under which the petitioner deposited a sum of Rs.20,000/- which was permitted to be withdrawn by the 2nd respondent and was actually withdrawn by him.

Having regard to the facts and circumstances of the case, I feel it just and proper that justice is evenly balanced between the parties, if the sum of Rs.50,000/- is reduced by Rs.10,000/-. The award of the Labour Court is accordingly modified by reducing the quantum of compensation awarded by the Labour Court to Rs.40,000/- in all. As a sum of Rs.20,000/- is already withdrawn by the 2nd respondent, the petitioner is directed to deposit the balance amount of Rs.20,000/- within a period of six weeks from today to the credit of I.D.No.264 of 1991 on the file of Labour Court-I, Hyderabad and on such deposit, the 2nd respondent is permitted to withdraw the said sum.

Subject to the above, the writ petition is disposed of. No order as to costs.

_____

C.V. NAGARJUNA REDDY, J

Date: 22.02.2007
ES